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A REGISTERED LIMITED LIABILITY PARTNERSHIP
600 CONGRESS AVENUE, SUITE 2400
AUSTIN, TEXAS 78701-3271
WWW.FULBRIGHT.COM

FACSIMILE TRANSMISSION**DATE:** October 27, 2006**MATTER NUMBER:**

10414186/CLFR:218US

RECIPIENT(S):	FAX NO.:	PHONE NO.:
Commissioner for Patents U.S. Patent and Trademark Office	(571) 273-2885	

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308-6916 on the date below:

October 27, 2006
Date

Geoffrey S. Findlay

FROM: Geoffrey S. Findlay**USER ID:** GF12117 **FLOOR:** 20**PHONE:** (512) 536-5674**FAX:** (512) 536-4598**RE:** SN 09/901,429 ✓**NUMBER OF PAGES WITH COVER PAGE:** 16 **Originals Will Not Follow****Message:**

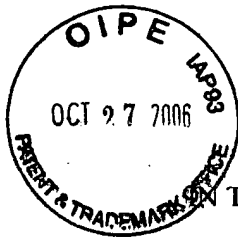
Submitted for filing in patent application Serial No. 09/901,429 please find the Application for Patent Term Adjustment Under 37 C.F.R. §1.705(d).

Geoffrey S. Findlay
Reg. No. 59,056

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**IF YOU DO NOT RECEIVE ALL OF THE PAGES, PLEASE CALL
GEOFF FINDLAY AT (512) 536-5674 AS SOON AS POSSIBLE.**



PATENT

THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
David Herndon

Serial No.: 09/901,429

Filed: July 09, 2001

For: BETA-ADRENERGIC BLOCKADE
REVERSAL OF CATABOLISM AFTER
SEVERE BURN

Group Art Unit: 1614

Examiner: Vickie Kim

Atty. Dkt. No.: CLFR:218US

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308-6916 on the date below:

October 27, 2006
Date

Geoffrey S. Findlay
Geoffrey S. Findlay

APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Applicants request a reconsideration of patent term adjustment under 37 C.F.R. §1.705(d). The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) included with the Notice of Allowance indicates a Patent Term Adjustment of 491 days, and the issued patent, U.S. 7,098,248, indicates a Patent Term Adjustment of 443 days. U.S. patent 7,098,248 is not subject to a terminal disclaimer. Attached is a copy of the Patent Application Information Retrieval (PAIR) system's calculations of Patent Term Adjustment.

On 26 September 2005, the USPTO received a Response to the Notice of Allowance to clarify the small entity status. A copy of this Response and the return postcard from the USPTO are attached.

As indicated on the attached copy of the PAIR system's calculations of Patent Term Adjustment, the Response is listed as a "Miscellaneous Incoming Letter", received on 26 September 2005, and an applicant delay of 72 days is shown. The Response, which provides comments regarding small entity status, should not be listed as an Applicant delay of 72 days under §1.704(c)(10). As stated in MPEP§2732 and 1247 Off. Gaz. Pat. Office 111 (June 26, 2001), submitting a response to change entity status after a Notice of Allowance is not a delay by the Applicant.

On 7 December 2005, the USPTO received a Response to the Notice of Allowance to request that the previous issue fee payment be applied and to clarify the small entity status. A copy of this Response and the return postcard from the USPTO are attached.

As indicated on the attached copy of the PAIR system's calculations of Patent Term Adjustment, the Response is listed as a "Miscellaneous Incoming Letter", received on 7 December 2005, and an applicant delay of 120 days is shown. The Response, which provides comments regarding small entity status, should not be listed as an Applicant delay of 120 days under §1.704(c)(10). As stated in MPEP§2732 and 1247 Off. Gaz. Pat. Office 111 (June 26, 2001), submitting a response to change entity status after a Notice of Allowance is not a delay by the Applicant.

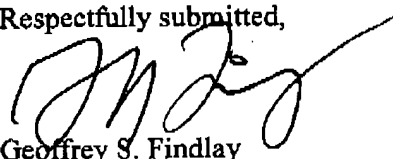
Accordingly, Applicants request that the Patent Term Adjustment should be adjusted by $443+120+72=635$ days.

The undersigned would also like to thank Kerry Fries at the USPTO for his helpful conversation on 27 October 2006. It is believed that the Responses of 7 December 2005 and 26 September 2005 should not have been entered as a "Miscellaneous Incoming Letter" in PAIR.

Applicants respectfully request an adjustment of the patent term from 443 days to 635 days, a collective patent term adjustment of 120 days in light of the above mentioned issues.

Because the error in patent term adjustment was due to the USPTO, Applicants request that the fee be waived. However, if a fee is due (e.g., in accordance with 37 C.F.R. § 1.18(e)), then the Commissioner is hereby authorized to deduct the necessary fee from Fulbright & Jaworski Deposit Account No.: 50-1212/CLFR:218US.

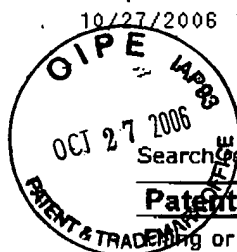
Respectfully submitted,



Geoffrey S. Findlay
Reg. No. 59,056
Agent for Applicant

FULBRIGHT & JAWORSKI, L.L.P.
600 Congress Ave., Ste. 1900
Austin, Texas 78701
(512) 474-5201

Date: October 27, 2006



Search results as of: 10-27-2006::15:27:06 E.T.

Patent Term Adjustment

Issue Date of Patent:	07-09-2001	USPTO Delay (PTO) Delay (days):	810
Pre-Issue Petitions (days):	+0	Three Years:	-
Post-Issue Petitions (days):	+0	Applicant Delay (APPL) Delay (days):	367
USPTO Adjustment(days):	+0	Total Patent Term Adjustment (days):	443
Explanation Of Calculations			

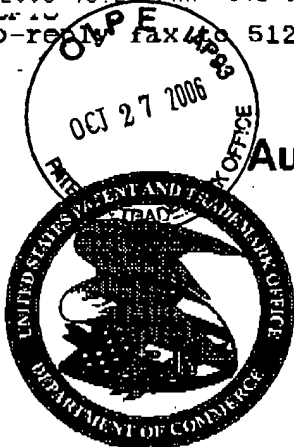
Patent Term Adjustment History

Date	Contents Description	PTO(Days)	APPL(Days)
08-09-2006	PTA 36 Months		
08-29-2006	Patent Issue Date Used in PTA Calculation	144	
07-24-2006	Receipt into Pubs	↑	
07-17-2006	Dispatch to FDC	↑	
07-17-2006	Dispatch to FDC	↑	
07-17-2006	Application Is Considered Ready for Issue	↑	
12-07-2005	Issue Fee Payment Verified	↑	
12-07-2005	Issue Fee Payment Received		
05-04-2006	Receipt Into Pubs		
12-07-2005	Miscellaneous Incoming Letter		120
12-07-2005	Applicant Has Filed a Verified Statement of Small Entity Status in Compliance with 37 CFR 1.27		↑
09-26-2005	Miscellaneous Incoming Letter		72
03-13-2006	Receipt into Pubs		↑
02-25-2006	Workflow - File Sent to Contractor		↑
12-13-2005	Information Disclosure Statement considered		↑
12-13-2005	Information Disclosure Statement considered		↑
09-08-2005	Mail Notice of Allowance	11	
09-06-2005	Notice of Allowance Data Verification Completed	↑	
06-03-2005	Information Disclosure Statement (IDS) Filed	↑	
09-06-2005	Date Forwarded to Examiner	↑	
04-28-2005	Request for Continued Examination (RCE)		69
09-06-2005	DISPOSAL FOR A RCE/CPA/129 (express abandonment if CPA)		↑
09-06-2005	Case Docketed to Examiner in GAU		↑
04-28-2005	Reference capture on IDS		↑
04-28-2005	Information Disclosure Statement (IDS) Filed		↑
08-03-2005	Correspondence Address Change		↑
08-03-2005	Change in Power of Attorney (May Include Associate POA)		↑
05-19-2005	Workflow - Customer Service Request - Finish		↑
05-19-2005	Workflow - Customer Service Request - Begin		↑
04-28-2005	Workflow - Request for RCE - Begin		↑
04-29-2005	Record Petition Decision of Granted to Withdraw from Issue		↑

04-28-2005	Petition Entered	↑
02-28-2005	Workflow - File Sent to Contractor	↑
02-28-2005	Receipt into Pubs	↑
02-22-2005	Issue Fee Payment Received	↑
11-18-2004	Mail Notice of Allowance	↑
11-18-2004	Mail Examiner's Amendment	
11-15-2004	Notice of Allowance Data Verification Completed	
11-15-2004	Examiner's Amendment Communication	
11-01-2004	Case Docketed to Examiner in GAU	
09-30-2004	Mail BPAI Decision on Appeal - Reversed	655
09-30-2004	BPAI Decision - Examiner Reversed	↑
09-02-2004	Docketing Notice Mailed to Appellant	↑
09-02-2004	Assignment of Appeal Number	↑
08-24-2004	Appeal Awaiting BPAI Docketing	↑
12-15-2003	Mail Miscellaneous Communication to Applicant	↑
12-12-2003	Miscellaneous Communication to Applicant - No Action Count	↑
07-23-2003	Order Returning Undocketed Appeal to the Examiner	↑
06-30-2003	Appeal Awaiting BPAI Docketing	↑
04-09-2003	Mail Examiner's Answer	↑
04-07-2003	Examiner's Answer to Appeal Brief	↑
02-05-2003	Date Forwarded to Examiner	↑
01-21-2003	Appeal Brief Filed	↑
12-16-2002	Notice of Appeal Filed	↑
12-09-2002	Information Disclosure Statement (IDS) Filed	
11-20-2002	Mail Advisory Action (PTOL - 303)	
11-18-2002	Advisory Action (PTOL-303)	
11-04-2002	Date Forwarded to Examiner	
10-30-2002	Amendment after Final Rejection	
10-08-2002	Mail Final Rejection (PTOL - 326)	
10-07-2002	Final Rejection	
07-24-2002	Date Forwarded to Examiner	
07-02-2002	Response after Non-Final Action	106
06-19-2002	Mail Notice of Informal or Non-Responsive Amendment	↑
04-09-2002	Date Forwarded to Examiner	↑
03-18-2002	Informal or Non-Responsive Amendment after Examiner Action	↑
03-18-2002	Response after Non-Final Action	↑
01-03-2002	Mail Non-Final Rejection	
12-31-2001	Non-Final Rejection	
11-03-2001	Case Docketed to Examiner in GAU	
10-26-2001	Application Dispatched from OIPE	

10-26-2001	Application Is Now Complete
08-24-2001	Notice Mailed--Application Incomplete--Filing Date Assigned
08-23-2001	Correspondence Address Change
07-25-2001	IFW Scan & PACR Auto Security Review
07-09-2001	Initial Exam Team nn

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TO: Fax Sender at 512 536 4598
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FULBRIGHT & JAWORSKI L.L.P. A REGISTERED LIMITED LIABILITY PARTNERSHIP 800 CONGRESS AVENUE, SUITE 8400 AUSTIN, TEXAS 78701-3271 WWW.FULBRIGHT.COM			
FACSIMILE TRANSMISSION			
DATE: September 26, 2005	MATTER NUMBER:	10414186 / CLP2218US	
RECIPIENT(S):	FAX NO.:	PHONE NO.:	
Commissioner for Patents U.S. Patent and Trademark Office	(512) 273-3885		
FROM: MODICA A. De La Paz	USER ID: MD10756	FLOOR:	20
PHONE: (512) 536-5639	FAX: (512) 536-4598		
RR: SN 09/901,429	NUMBER OF PAGES WITH COVER PAGE: 2 Originals Will Not Follow		
MESSAGE: Submitted for filing in patent application Serial No. 09/901,429, please find correspondence regarding previously paid issue fee.			
CAUTION - CONFIDENTIAL THE INFORMATION CONTAINED IN THIS FACSIMILE IS CONFIDENTIAL AND MAY ALSO CONTAIN PRIVILEGED ATTORNEY-CLIENT INFORMATION OR WORK PRODUCT. THE INFORMATION IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHOM IT IS ADDRESSED. IF YOU ARE NOT THE INTENDED RECIPIENT, OR THE INFORMATION OR WORK PRODUCT IS RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY USE, DISSEMINATION, OR REPRODUCTION OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ADDRESS ABOVE VIA THE U.S. POSTAL SERVICE. THANK YOU.			
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PAGE 12 * RCVD AT 10/27/2006 5:24:34 PM [Eastern Daylight Time] * SVR:USPTO-EFAX-6/30 * DNIS:2732885 * CSID:512 536 4598 * DURATION (mm-ss):02:32			

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AUSTIN, TEXAS 78701-3271
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FACSIMILE TRANSMISSION**DATE:** September 26, 2005**MATTER NUMBER:**10414186 /
CLFR:218US

RECIPIENT(S):	FAX NO.:	PHONE NO.:
Commissioner for Patents U.S. Patent and Trademark Office	(571) 273-2885	

FROM: Monica A. De La Paz**USER ID:** MD10756 **FLOOR:** 20**PHONE:** (512) 536-5639**FAX:** (512) 536-4598**RE:** SN 09/901,429**NUMBER OF PAGES WITH COVER PAGE:** 2 **Originals Will Not Follow****Message:**

Submitted for filing in patent application Serial No. 09/901,429, please find correspondence regarding previously paid issue fee.

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MDELAPAZ@FULBRIGHT.COM
DIRECT DIAL: (512) 536-5639

TELEPHONE: (512) 474-5201
FACSIMILE: (512) 536-4598

September 26, 2005

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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below:

September 26, 2005
Date

Monica A. De La Paz

Re: *SN 09/901,429 "BETA-ADRENERGIC BLOCKADE REVERSAL OF
CATABOLISM AFTER SEVERE BURN" – by David N. Herndon*
Your Ref. D6414; Our Ref. CLFR:218US

Commissioner:

Pursuant to the instructions of the Office of Patent Publication and for clarification purposes, Applicants herein communicate to the Patent and Trademark Office that Applicants have received a Notice of Allowance and Fee(s) Due requesting payment of large entity issue fee. Applicants state the small entity issue fee was paid on February 16, 2005. Further, Applicants state that small entity status has not changed.

Applicants request that this correction be noted.

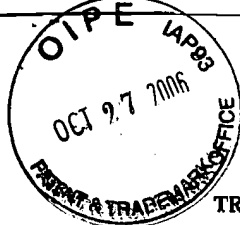
Respectfully submitted,

Monica A. De La Paz
Reg. No. 54,662

MAD/vv

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DATE: September 26, 2005

MATTER NUMBER:

10414186 /
CLFR:218US

RECIPIENT(S):	FAX NO.:	PHONE NO.:
Commissioner for Patents U.S. Patent and Trademark Office	(571) 273-2885 ✓	

FROM: Monica A. De La Paz

USER ID: MD10756 FLOOR: 20

PHONE: (512) 536-5639

FAX: (512) 536-4598

RE: SN 09/901,429

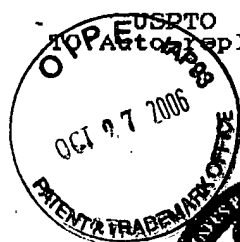
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PAGE 11/16 * RCVD AT 10/27/2006 5:24:34 PM [Eastern Daylight Time] * SVR:USPTO-EFAX-6/30 * DNIS:2732885 * CSID:512 536 4598 * DURATION (mm-ss):02-32


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12/07/05 WED 15:19 FAX 512 536 4598		FULBRIGHT & JAWORSKI		0001	
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FACSIMILE TRANSMISSION					
DATE: December 7, 2005		MATTER NUMBER:		10414186CLER21FL3	
RECIPIENT(S):		FAX NO.:		PHONE NO.:	
Commissioner for Patents U.S. Patent and Trademark Office		(512) 273-2885			
FROM: Monica A. De La Paz		UPPER ID: MD10756		FLOOR: 20	
PHONE: (512) 536-5639		FAX: (512) 536-4598			
RE: SN 09/901,429					
NUMBER OF PAGES WITH COVER PAGE:		3		Originals Will Not Follow	
Message: Submitted for filing in patent application Serial No. 09/901,429 please find a Part B - Fee(a) Transmittal. Monica De La Paz Reg. No. 54,562					
CAUTION - CONFIDENTIAL					
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TELEPHONE: (512) 474-5201
FACSIMILE: (512) 536-4598

December 7, 2005

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December 7, 2005
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Monica A. De La Paz

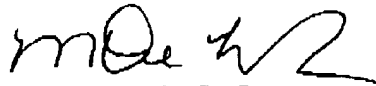
Re: SN 09/901,429 "BETA-ADRENERGIC BLOCKADE REVERSAL OF
CATABOLISM AFTER SEVERE BURN" - by David N. Herndon
Client Ref. D6414; Our Ref. CLFR:218US

Commissioner:

Enclosed for filing in the above-referenced patent application is a Part B - Fee(s) Transmittal form.

Please note that the small entity Issue Fee was previously paid on February 16, 2005, therefore, apply that payment to the above application.

Respectfully submitted,



Monica A. De La Paz
Reg. No. 54,662

MAD/djm
Enclosures

25603433.1 / 10414186

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PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail

Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571) 273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below. Indicate otherwise in Block 1, by (a) specifying a new correspondence address, and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Use this block for any change of address)

7590

09/06/2005

David L. Parker
FULBRIGHT & JAWORSKI L.L.P.
Suite 2400
600 Congress Avenue
Austin, TX 78701

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

Monica A. De La Paz (Depositor's name)
[Signature] (Signature)
December 7, 2005 (Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/901,429	07/09/2001	David N. Herndon	CLFR-218US	7358

TITLE OF INVENTION: BETA-ADRENERGIC BLOCKADE REVERSAL OF CATABOLISM AFTER SEVERE BURN

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1400	\$0	\$1400	12/08/2005

EXAMINER	ART UNIT	CLASS-SUBCLASS
KIM, VICKIE Y	1618	514-651000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

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3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

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(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Research Development Foundation

Carson City, Nevada

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

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5. Change in Entity Status (from status indicated above)

☒ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above. NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant, a registered attorney or agent, or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature

Date December 7, 2005

Typed or printed name Monica A. De La Paz

Registration No. 54,662

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Monica De La Paz
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